

Evening Journal, Wilmington, Del., Wednesday, March 23, 1977 3

## Busing Brief Leaves Roth Mad, Biden 'Frustrated'

**By PAT ORDOVENSKY**  
Washington Bureau

WASHINGTON — President Carter's brand-new Justice Department is making both of Delaware's senators unhappy.

And they sounded off about it yesterday, using words like "shocked," "outraged" and "frustrated as hell."

Sen. William V. Roth Jr., a Republican who last year was organizing bipartisan meetings at the Justice Department to discuss busing, is "outraged" because the new Justice Department won't talk to him about the issue.

Sen. Joseph R. Biden Jr., a Democrat who last year was working in Jimmy Carter's presidential campaign, is "frustrated as hell" because Carter's Justice Department won't talk to him, either.

Biden says they have all been "extremely cool" to him since he voted against the confirmation of two top-level Justice officials, Solicitor General Wade H. McCree Jr. and Drew S. Days III, assistant attorney general for civil rights.

Roth yesterday took the floor of a nearly empty Senate chamber to complain about the Carter administration's position in Wilmington's busing appeal and the Justice Department's refusal to discuss it.

He called the department's brief "nothing more than a cop-out" because it ignores what he considers the central issue of the appeal — whether Delaware's school segregation was intentional.

"For the past two months I have tried, both in writing and by telephone, to arrange a personal meeting with the attorney general to discuss with him the scope of participation by the Justice Department in the Wilmington busing case," Roth said.

He said it was suggested that he meet instead with McCree or Days but "we were never able to make arrangements."

Roth said he was "shocked and outraged" to learn Friday morning that the brief would be filed with the 3rd Circuit Court of Appeals that day.

"It is hard to square this performance with the assurances of the President that the Justice Department would be apolitical," Roth said, after reading in newspapers that Biden had discussed the busing case with Atty. Gen. Griffin B. Bell.

A Justice Department spokesman refused comment on Roth's blast except to note that both Delaware senators' position on busing are virtually identical.

Biden was presiding over the Senate as Roth spoke and at times was the only other senator in the chamber.

"They did the exact same thing to me," Biden said. "I thought I had a commitment from Days to discuss the Wilmington case before the brief was filed." But he said he also was surprised Friday to learn it would be filed that day.

"They actually told me I couldn't see it," (before it was filed) Biden said. "I let them know what I thought of that. It was frustrating as hell."

Biden three weeks ago was invited to discuss the busing issue with Bell and McCree in the attorney general's office in an administration effort to soften the Delawarean's opposition to McCree's nomination as solicitor general.

The attempt failed. The government's brief suggests that the need for busing in northern Delaware has been established, but the current court order goes too far in applying the remedy.

"The Supreme Court recently made it clear that this intent must be present in cases of discrimination," Roth told the Senate. "Yet the Justice Department's brief ignores this principle and, therefore, it is unfair to the people of Delaware."

Biden has said one of the reasons he voted against McCree and Days was their refusal to publicly endorse the principle that no constitutional violation exists unless intentional discrimination has been proven.